

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15628 of Greig de la Houssaye, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure that does not meet the minimum side yard requirements [Paragraph 2001.3(b) and (c)], a variance from the allowable lot occupancy requirements (Subsection 403.2), and a variance from the side yard requirements (Subsection 405.9) for a two-story rear addition to an existing nonconforming structure in an R-1-B District at premises 1519 Elliot Place, N.W. (Square 1358, Lot 802).

HEARING DATE: February 19, 1992
DECISION DATE: May 6, 1992

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located at 1519 Elliot Place, N.W. The property is zoned R-1-B.

2. The R-1-B District permits matter of right development of single-family residential uses for detached dwellings with a minimum lot area of 5,000 square feet, a minimum lot width of 50 feet, a minimum rear yard depth of 25 feet, and a maximum height limit of three stories/40 feet.

3. The subject lot is rectangular-shaped and has a width of 13.37 feet and a depth of 100.95 feet, and has a total land area of 1,336 square feet.

4. The subject lot is improved with a two-story plus basement, brick rowhouse dwelling that was constructed in 1900. The dwelling unit contains approximately 1,332 square feet of living space.

5. Inasmuch as the rowhouse dwelling predated the current zoning requirements of the R-1-B District, the dwelling is a grandfathered structure under the 1958 Zoning Regulations.

6. Notwithstanding its grandfathered designation, the dwelling and its attendant use constitute nonconforming property uses within the R-1-B District.

7. The subject property is located in the Foxhall Village neighborhood of Ward 3. Foxhall Village is developed with low-density, single-family, detached homes. Interspersed throughout the neighborhood, however, are low-density apartment houses and low-density commercial development.

8. Nearby governmental and institutional facilities include the Georgetown Reservoir, which is located to the immediate west of the subject property, and Hardy Elementary School, which is located to the northeast of the subject property.

9. The applicant proposes to increase the habitable area of this dwelling unit by constructing a two-story addition at the rear of the dwelling unit in the area of the presently deteriorated back porch. The purpose of the proposed addition is to create a new family room measuring approximately 13 feet wide by 12 feet deep on the first floor and to enlarge the existing master bedroom on the second floor. The dimensions of the master bedroom would also increase by 13 feet and 12 feet, respectively.

10. The applicant's proposed two-story addition seeks to enlarge a nonconforming structure. Such an enlargement is precluded under Subsections 2001.3(b) and (c) of the Zoning Regulations.

11. The proposed two-story addition is further precluded under Subsection 403.2 of the Zoning Regulations because the addition would add 105 square feet of habitable floor area to the dwelling unit. Thus, the dwelling would exceed the 40 percent lot occupancy requirement of the R-1-B District by eight percent.

12. The proposed two-story addition is further precluded under Subsection 405.9 of the Zoning Regulations because the existing dwelling unit is a rowhouse without side yards. Thus, the dwelling would not conform to the eight-foot minimum side yard requirement of the R-1-B District.

13. With regard to the uniqueness of the subject property, the applicant posits that as a rowhouse in a single-family detached housing district, his property is unique. He further contends that the dwelling unit is also unique because, at present, he does not have enough space to have a child.

14. With regard to the deprivation of the reasonable use of the property if the requested variance is denied, the applicant did not present any evidence that such a deprivation would occur.

15. The Office of Planning (OP), by memorandum dated February 12, 1992, recommended conditional approval of the application. The OP's approval is conditioned upon the following: (1) that the applicant reduce the dimension of the proposed two-story addition to approximately 10 feet wide by 8 1/2 feet deep; and (2) that the existing rear breezeway remain open at the first and second stories.

As to the first condition, OP opined that the 10 feet by 8 1/2 feet dimensional requirements would allow the applicant to construct up to the original building line without creating a negative visual block of either of the neighboring properties. With respect to the second condition, OP reasoned that to allow the applicant to construct in the breezeway would create a negative visual impact and impede light and air to 1521 Elliot Place, N.W.

Lastly, OP stated that practical difficulties such as the small lot size, the R-1-B zoning designation, the age of the dwelling unit, and the shape of the lot were factors which warranted conditional approval of the application.

16. Advisory Neighborhood Commission 3B (ANC-3B), on January 23, 1992, January 28, 1992 and February 19, 1992, submitted letters in which the ANC set forth its opposition to the application.

In its letters of January 23 and 28, 1992, the ANC contested the applicant's petition because the applicant had not availed himself to the community review process.

In its letter of February 19, 1992, the ANC opposed the application because the proposed addition would have a significant adverse impact upon the use and enjoyment of the neighboring properties. Specifically, the ANC claimed that the addition would create a negative visual impact and impede light and air to the adjoining properties.

17. The Georgetown Reservoir Neighborhood Association, Inc. (GRNA), on February 12, 1992, submitted a resolution in which its members voted to oppose the application. The GRNA opposed the application because the project may have a negative impact on the use, enjoyment and monetary value of neighboring properties.

18. Several nearby residents submitted letters in opposition and testified at the public hearing in opposition to the application. The nearby residents opposed the size of the project because they alleged that the proposed two-story addition would block air and light, and have a negative impact on the use, enjoyment and monetary value of neighboring properties.

19. While ANC-3B, the GRNA, and the neighbors opposed the original proposal, each group indicated that they would support a scaled-down version of the proposed project.

20. By letter dated December 19, 1991, the Metropolitan Police Department (MPD) offered no opposition to the application. The MPD concludes that the proposed project would not affect the public safety in the immediate area nor generate an increase in the level of police services now being provided.

21. At the conclusion of the February 19, 1992 public hearing, the Board requested that the applicant submit revised plans which demonstrated an intent to comply with OP's conditions, as well as to address the concerns of the neighbors.

22. On March 3, 1992, the applicant submitted revised plans to the Board. The plans illustrated that the proposed two-story addition would be approximately 13 feet wide and 11 feet deep, and would extend approximately three feet beyond the existing rear porch. Thus, the revisions did not comply with OP's conditions or address the concerns of the neighbors.

23. The Office of Planning (OP), by supplemental memorandum dated March 25, 1992 summarized its original concerns which it set forth in the February 12, 1992 memorandum. Accordingly, OP recommends conditional approval of the application.

24. On March 20, 1992, ANC-3B submitted a letter to the Board in which the ANC recommended that the Board approve the applicant's revised plans.

25. On April 28, 1992, however, ANC-3B submitted a letter to the Board wherein the ANC opposed the applicant's variance request because the applicant's revised plans did not mitigate the negative impact of the proposed addition on the surrounding properties.

26. On April 1, 1992, several neighbors submitted letters in opposition to the revised plans. Collectively, they opposed the revised proposal because the addition would block light and air, and change the inherent nature of the rowhouses.

27. On April 2, 1992, the applicant submitted an amended application to the Board wherein he requested the authority to enclose the existing porch at the rear of the rowhouse. By this letter, the applicant indicated his intent to not go forward with original scheme.

28. On April 29, 1992, two neighbors submitted letters in opposition to the applicant's amended application. The neighbors opposed the amended application because they were not provided details of the proposed project by the applicant and due to the applicant's intent to sell his property.

29. The applicant commenced construction of the enclosure of the first-story of the rear porch without the approval of the Board.

FINDINGS OF FACT:

Based on the evidence of record the Board finds as follows:

1. The subject dwelling was constructed before the enactment of the Zoning Regulations in 1958.
2. The subject dwelling is similar to four other rowhouse dwellings in the same street block.
3. The applicant's proposal to construct a two-story addition at the rear of the dwelling which would extend beyond the property line would impact negatively upon the amount of light adjacent dwellings would receive; the proposed extension also would impede the natural flow of air between adjacent dwelling; and the proposed addition also would be inconsistent with the established configuration of the rowhouses.
4. The proposed two-story addition at the rear of the dwelling would substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking area variances to allow the construction of a two-story rear addition to an existing nonconforming rowhouse residential dwelling unit in an R-1-B District. Granting such variances requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. Further, the Board must find that the application will not be of substantial detriment to the public good, and will not substantially impair the intent, purpose and integrity of the zone plan.

The Board concludes that the applicant has not met this burden of proof. The Board further concludes that neither the location, narrowness, shape or topography of the property makes the property unique because there are other lots nearby that are similar to the subject property in terms of size, shape, width, depth and topography.

The Board notes that the Zoning Regulations do not allow the proposed use in the R-1-B District. Any proposed construction should comply with existing regulations. It is the intent of the Zoning Regulations to have nonconforming aspects of property

diminish over time. To allow the proposed construction would expand, rather than eliminate, a nonconformity. It is the opinion of the Board that to allow construction under these circumstances, where the tests for variance relief have not been met, would substantially impair the intent, purpose and integrity of the zone plan.

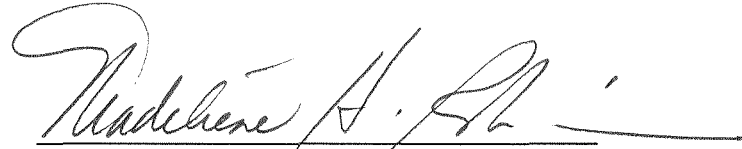
The Board further concludes that ANC-3B presented issues and concerns to which "great weight" was accorded.

In light of the foregoing, the Board **ORDERS** that the application is hereby **DENIED**.

VOTE: 3-0 (Carrie L. Thornhill and Paula L. Jewell to deny; Sheri M. Pruitt to deny by absentee vote; Angel F. Clarens not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER:

NOV 23 1993

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15628

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on NOV 23 1996 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

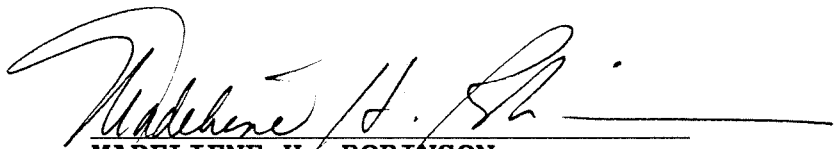
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MADELIENE H. ROBINSON
Director

DATE: NOV 23 1996